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Election  
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Due Date: December 28, 2000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: William P. Van Antwerp et al. Examiner: A. Davenport  
Serial No.: 09/344,676 Group Art Unit: 1653  
Filed: June 25, 1999 Docket: G&C 130.32-US-01  
Title: MULTIPLE AGENT DIABETES THERAPY

CERTIFICATE OF MAILING OR TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being filed via facsimile transmission to the U.S. Patent and Trademark Office on December 28, 2000.

By: W. J. Wood  
Name: William J. Wood

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

In response to the Office Action dated November 1, 2000, please enter the following remarks.

REMARKS

I. RESTRICTION REQUIREMENT

The Office Action dated November 1, 2000 required restriction of the claims into 3 claim Groups. In response, Applicants elect Group I (claims 1-25 and 59-71) with traverse for prosecution at this time. In addition, for the reasons discussed below, Applicants respectfully request the Examiner reconsider and withdraw the restriction requirement.

35 U.S.C. §121 provides that "If two or more independent and distinct inventions are claimed in one application, the Commissioner may require the application to be restricted to one of the inventions." M.P.E.P. §802.01 deviates from the plain meaning of "independent and distinct" by interpreting "and" to mean "or". The Patent Office relies on the absence from the legislative history of anything contrary to this interpretation as support for their position that "and" means "or". Applicants respectfully note that this position is contrary to the rules of statutory